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Fast Track Proposed Regulation Agency Background Document

Agency name	DEPT. OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12VAC30-70-331
Regulation title	Methods and Standards for Establishing Payment Rates—Inpatient Hospital Services
Action title	Increase Adjustment Factor to .75
Document preparation date	; GOV APPROVAL NEEDED BY

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

Pursuant to Chapter 4, Item 326 XX of the 2004 Acts of the Assembly the Department of Medical Assistance Services (DMAS) proposes to set the adjustment factor for private inpatient hospitals at 75 percent beginning with the 2006 rate year (SFY 2006) on July 1, 2005. This regulatory change implements that mandate.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

The Office of the Attorney General has certified that this agency has the authority to promulgate this action pursuant to the COV § 2.2-4012.1

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulatory change discussed in this document is to set the private inpatient hospital adjustment factor at 0.75. This regulatory action is initiated at the direction of the Governor and General Assembly found in Item 326 XX of the 2004 Appropriations Act. This regulatory change is intended to increase inpatient hospital reimbursement to private (Type Two) hospitals in order to promote access to Medicaid services. Private (Type Two) hospitals have complained that the discount taken by the Medicaid program should be eliminated and costs should be reimbursed. This regulatory change lowers the discount taken, but does not eliminate the discount altogether.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

This regulatory action will implement a more provider-favorable reimbursement policy than currently in place for private (Type Two) inpatient hospitals. Since this action will serve to increase reimbursements relative to the current rate methodology, objections by providers and their advocate groups are not anticipated. The agency is using the fast-track process in order to complete the needed regulatory changes far enough in advance of the 2006 rate year to provide predictability to the provider community and for state budget purposes.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The section of the State Plan for Medical Assistance that is affected by this action is the Methods and Standards for Establishing Payment Rates—Inpatient Hospital Care (Attachment 4.19-A (12 VAC 30-70-331)).

12VAC30-70-331 will be amended to eliminate the formula used to determine the adjustment factor, and to set the adjustment factor to 0.75. Under the current regulations, the adjustment factor for private (Type Two) hospitals is the ratio of Medicaid payments to Medicaid allowable costs in a determined base year. For the 2005 rate year, the calculated adjustment factor is approximately 0.72. Therefore, under the current formula, the Medicaid program has taken a 28 percent discount off of the providers' base year costs in determining the payment rates for the 2005 rate year. Under normal circumstances, the adjustment factor is calculated only in years for which the inpatient reimbursement system is rebased, which by regulation occurs at least every three years. When the system is not undergoing a rebasing, the adjustment factor remains at the level determined in the most recent rebasing, with hospital rates adjusted for inflation in the out years of a rebasing.

Setting the adjustment factor to 0.75 will eliminate any calculation of the adjustment factor and will reduce the discount taken to 25 percent (currently 28 percent). This change is being made to meet the directive of the Governor and General Assembly in the 2004 Appropriations Act. This change will be effective beginning with the 2006 rate year with the new adjustment factor applied to the current base year in use for the 2005 rates. The 2005 rates and DRG weights represent the first year of the most recent rebasing. DMAS is not rebasing the rates and weights again but rather is applying the new adjustment factor to the existing base year calculations. Under current regulations, DMAS is not required to rebase again until the 2008 rate year.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantage to this regulatory change will be increased reimbursements to private (Type Two) inpatient hospitals for their Medicaid business. This should serve to maintain access to Medicaid services for the eligible population.

The primary disadvantage to the Commonwealth will be increased expenditures in the Medicaid program relative to the current methodology.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	DMAS is projecting a total cost of approximately \$18.3 million annually beginning in SFY 2006. The fund breakout is \$9.125 million in General Funds and 9.125 million in Federal matching funds.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Private (Type Two) inpatient hospitals serving Virginia Medicaid recipients
Agency’s best estimate of the number of such entities that will be affected	112
Projected cost of the regulation for affected individuals, businesses, or other entities	None

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

This regulatory change was defined by the Appropriations Act and therefore no alternatives are possible.

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulatory action will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC 30-70-331		Calculation of the adjustment factor	Eliminates the calculation and sets the adjustment factor to 0.75 in order to meet the intent of the Appropriations Act